

REMARKS

Claims 1-17 are pending within this application. No claims have been canceled or added. Claims 1, and 10 have been amended merely to indicate that 0.8 ounces per square yard is the minimum amount of film to be applied in accordance with the presently claimed invention to the target side-curtain rollover protection airbag (with 2.7 ounces per square as the maximum amount). Support for these amendments is found, at least, at page 19, lines 1-3 of the originally filed specification. No new matter has been submitted. Entry and due consideration thereof such amendments are therefore earnestly solicited.

The Office has rejected Claims 1-17 under 35 U.S.C. § 102(e) as being anticipated by Li et al. ('186). In view of the amendments above, it is respectfully submitted that the basis of this rejection is improper. Li et al. specifically teach that 0.6 ounces per square of coating is the maximum level to be applied to their target airbag fabrics (for driver's or passenger airbags). Although some discussion of the importance of coatings in general is present at col. 3, lines 8-11 of Li et al., there is nothing further that signifies or indicates the ability to properly apply such extremely low amounts of cross-linked coatings as taught by patentees within the four corners of such a patent. In any event, the disclosure of such a general idea is unimportant in view of the instant claim amendments submitted above. There is nothing within the Li et al. patent that would teach, suggest, or provide any motivation whatsoever to the ordinarily skilled artisan to apply an excess of the aforementioned 0.6 maximum ounces per square yard of fabric. Thus, this rejection is now moot and would not be a proper basis of rejection under any obviousness standard simply because the claims and Li et al.'s taught subject matter are divergent in nature. Reconsideration and withdrawal of such an improper rejection are therefore respectfully requested.

The Office has also rejected Claims 1-6 and 8-17 under 102(b) as being anticipated by, or alternatively under 103(a) as being unpatentable in view of Menzel et al. ('666). Applicant respectfully and strongly disagrees with such a basis of rejection, particularly since there been no regard taken of the stark and distinct differences between the required side curtain rollover protection airbags now claimed, and the specific driver's side and passenger side airbags of patentees'. To support such a distinction, Applicant provides a direct quote from another patent:

"[S]ide curtain airbags are intended to inflate at the time of impact, as do conventional airbags. The side curtains unfold to form a cushioned curtain between passengers and some of the side of the car body, e.g., the windows. As the intention is not merely to cushion the blow on impact itself, as is the case for conventional driver and passenger airbags, but e.g., to protect passengers when a car is rolling, it is important that the side curtain air bag is sufficiently pressurised [sic] during such rolling process. Where conventional driver and passenger airbags only need to retain pressure for a fraction of a second, it is desirable that side curtain airbags maintain a suitable pressure for a few seconds." European Patent Application, 866,164 A1, to Brookman et al., col. 2, lines 17-25 (a copy of which is attached hereto)

This is the state of the side curtain rollover protection art as it is distinct from the driver's side and passenger side types. Side curtain rollover-prevention airbag cushions are simply not the same as the driver or passenger side airbags with which Menzel et al. are solely concerned. Thus, patentees' airbag fabrics would not provide the same long-term air impermeability under intense inflation pressures as the currently claimed invention must exhibit. It is true that low permeability is taught within such patents for such specific types of airbags, but only to the extent that regulated permeability upon a collision event is provided. Once such driver or passenger side airbags are inflated during a collision event, such airbags must instantaneously exhibit a certain degree of permeability to provide the needed cushioning effect. Without it, the driver or front seat passenger would, in essence, hit, face first, a very high pressure inflated bag which would not provide any cushioning benefit at all. In the past, such cushioning effects were provided by including strategically placed holes within the target airbag cushion in order to permit regulated gas (air) release upon inflation and contact by the driver and/or passenger. Due to the heat of such gasses, such a design was avoided since such holes permitted appreciable

levels of very hot gasses to escape and potentially scald the driver and/or passenger. Thus, as discussed throughout Menzel et al., coatings were provided that would provide a certain degree of low permeability, but not to the extent that long-term inflation would be permitted. By stating that they are solely concerned with driver and/or passenger side airbags, there is an implied, if not explicit, limitation to the breadth of scope of patentees' complete disclosure. There can clearly not reside any anticipation over the pending claims when Menzel et al.'s taught fabrics and resultant airbags are not designed to withstand the same extremely low gas and/or air permeability of the claimed inventive side curtain airbag cushion. Furthermore, as there is nothing providing any motivation to modify the airbag cushion of patentees to become side curtain rollover protection airbag cushion (as now claimed), it is not evident to Applicant how a proper prima facie obviousness basis of rejection would exist either. There is no discussion nor fair suggestion within Menzel et al. of the ability of any coatings taught or disclosed therein to provide rollover-designed airbag cushion protection (e.g., long-term inflation without appreciable leakage, just as presently claimed). The Office has entered an area in which it is exercising improper hindsight reconstruction of Applicant's own teachings and ignoring the clear and well known distinctions between driver/passenger side airbag cushions of the cited prior art and the side curtain rollover protection airbag cushions present within the instant claims. Since the present claims require a side curtain airbag cushion of such type, Menzel is inappropriate as prior art. Reconsideration and withdrawal of such improper rejections are therefore respectfully requested.

The Office has also provisionally rejected Claims 1-17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-5 and 8 of U.S. Pat. No. 5,945,186, as well as Claims 1-7, 10-20, 24-33, and 35-39 of copending U.S. Pat.

Appl. No. 09/501,467. Applicant, although in disagreement with these bases of such a rejection, nonetheless, in an effort to expedite prosecution of this application, which has been pending in excess of three years already, hereby provides the required Terminal Disclaimers to overcome these rejections. Reconsideration and withdrawal of such improper rejections are therefore respectfully requested.

CONCLUSION

In view of all of the previous amendments and remarks, it is respectfully requested that the amendments and remarks be entered and duly considered and it is further submitted that upon such entry and consideration thereof, the resulting claims will be in condition for allowance. Hence, it is respectfully requested that this application be passed on to issue.

June 3, 2003

Respectfully submitted,



William S. Parks
Attorney for Applicants
Registration No. 37,528
Telephone Number: (864) 503-1537

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 3, 2003, along with a postcard receipt.



William S. Parks, Attorney for Applicants

MARKED-UP VERSION OF AMENDMENTS TO 09/557,643

IN THE CLAIMS:

1.(Twice Amended) A side curtain airbag cushion designed to protect vehicle occupants during a rollover collision, said cushion comprising a fabric exhibiting an outer surface and an inner surface in relation to said cushion, wherein a film is laminated to at least one of said outer surface and said inner surface of said fabric, wherein said film is present on said surface of said fabric in an amount of at least 0.8 and at most 2.7 ounces per square yard of the fabric; and wherein said airbag cushion exhibits a characteristic leak-down time after inflation of at least 5 seconds.

10.(Twice Amended) A side curtain airbag cushion designed to protect vehicle occupants during a rollover collision, said cushion comprising a fabric exhibiting an outer surface and an inner surface in relation to said cushion, wherein a film is laminated to at least one of said outer surface and said inner surface of said fabric, wherein said film is present on said surface of said fabric in an amount of between at least 0.8 and at most 2.7 ounces per square yard of the fabric; wherein said film possesses a tensile strength of at least 2,000 psi and an elongation at break of at least 180%; and wherein said airbag cushion exhibits a leak-down time after inflation of at least 5 seconds.